

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Fair Isaac Corporation; and myFICO  
Consumer Services, Inc.,

Civil Action No: 06 CV 4112 ADM/JSM

Plaintiffs,

v.

**Declaration of Susan Blue Hitt**

Equifax Inc.; Equifax Information Services  
LLC; Experian Information  
Solutions, Inc.; Trans Union LLC; and  
VantageScore Solutions, LLC; and Does I  
through X,

Defendants.

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I, Susan Blue Hitt, declare as follows:

1. I am Vice President for Scoring Product Development at Fair Isaac Corporation ("Fair Isaac"). I have reviewed Defendants' Proposed Paragraph 21 for the Protective Order and I am preparing this declaration for the purpose of responding to the practical implications of that proposal for any expert who would be doing work on the defendants' algorithm and related data and documents.

2. The defendants are proposing a set of conditions for experts that strike me as near impossible conditions under which to work, especially given the time restrictions in this litigation. Among other conditions, the defendants are proposing, for example, that their algorithm(s) and development data be held at the offices of an independent escrow agent and that any experts doing work with the algorithm travel to the facilities of the escrow agent to perform their work. If the Court were to order this restriction, this would require a great deal of computer hardware to be moved to or otherwise made available in the facilities of the escrow agent.

Algorithms are generally written in C code and operate on mainframe computers. The credit data

that is used to develop and test algorithms is a very sizeable amount of digital data—probably 300Gb or more in size. In working with the algorithm and data in developing their opinions, the expert or experts are likely going to want to do some of their own programming. Without getting into all of the technical details of what this might entail, I can say that this is *not* the type of work that can simply be done on laptop or desktop computer.

3. In addition to the computer hardware and data considerations, there are also software implications under the defendants' proposal. If the expert or experts have to set up separate computer operations at the offices of an escrow agent—and the expert cannot use the computer hardware and software that might otherwise be available to that expert (e.g., through a university)—the expert is going to have to arrange for some type of licensing for the software to be used on the new computer equipment at the escrow agent's facilities. The software that will be used by the expert or experts is not off-the-shelf, boxed software like Microsoft's Excel program. The software that an expert would need to perform work on the algorithm and to work with the large data involved would be sophisticated business intelligence and analytics software packages, like SAS (which stands for "Statistical Analysis System"), an integrated system of software products from the SAS Institute. This type of software, in my experience, is generally licensed to corporations and academic institutions. Whether an individual expert could even obtain a license to use all of the necessary software programs on a mainframe or server at an escrow-agent's facilities is something I don't know, but I can well imagine that the cost for the licenses, if they could be obtained, would be very steep.

4. All of the complications or difficulties associated with the defendants' proposal could be compounded, of course, if more than one type of expert is used to examine the materials or if an expert were to employ assistants (e.g., graduate students working under the direction of a professor). Multiple locations of escrow facilities might be necessary, multiple computer hardware items, multiple licenses for software, etc.

5. This is just a summary of some of the practical problems I can see associated with the defendants' proposal. If the data, algorithm, and algorithm-related documents are ordered produced, the expert won't know the details of all of his or her hardware and software needs until the actual data, algorithm, and related materials are in the expert's hands.

Date: May 18, 2007



Susan Blue Hitt